# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 5255 of 2005

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE AKIL KURESHI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**GUJARAT STATE ROAD TRNASPORT CORPORATION - Petitioner(s)**

**Versus**

**KANTILAL NATHUBHAI PATEL - Respondent(s)**

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**Appearance :**

MR HARDIK C RAWAL for Petitioner(s) : 1,
MR SUBRAMANIAM IYER for Respondent(s) : 1,

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**CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI**

**Date : 01/09/2005**

**ORAL JUDGMENT**

In the present petition, the petitioner Gujarat State Road Transport Corporation, has challenged the legality of the award dated 17.8.04 passed by the Labour Court, Surat in Reference No.307 of 2003.

2. The respondent workman was working as Conductor with the petitioner Corporation. On 24.11.2000 when the respondent was discharging his duties as a conductor in the bus, it was checked by the checking squad of the petitioner Corporation. The bus at the time had only one passenger who was also not given ticket. On finding that the bus is going to be checked, hurriedly the respondent tried to issue ticket and punched it wrongly. The way bill was also closed. For this misconduct, after holding departmental inquiry by an order dated 13.10.2001, the respondent was dismissed from service. His departmental appeals also rejected. The workman, therefore, approached the Labour Court by raising Reference No.307 of 2003. The reference Court allowed the reference and ordered reinstatement of the workman without backwages and ordered substitution of penalty of withholding of one increment with future effect. The Labour Court observed that the workman admitted that ticket was punched wrongly. However, the same can be at best his negligence. The Labour Court observed that it is also possible that since the bus was checked immediately after the passenger was boarded, upon seeing the checking squad, in a hurry the Conductor might have made a mistake in punching the ticket. Eventually the Labour Court

found that the penalty imposed is excessive.

3. There was no material on record to come to the conclusion that the ticket was wrongly punched on account of negligence. In fact, through departmental inquiry, it was proved that the respondent had tried to commit misappropriation by carrying ticketless passengers. The fact that there was only one passenger in the bus cannot be lost sight of. The Labour Court also ought to have adverted to the past record of the workman. The default card was produced before the Labour Court. In the career, the workman was involved in as many as 37 different incidents of misconduct. Many of these pertained to misappropriation of fares collected. It was therefore not possible for the Labour Court to take a lenient view.

4. In the result, I find that the order passed by the Labour Court cannot be sustained and the same is hereby quashed. The petition is accordingly allowed. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)